

HOUSE No. 923

By Miss Garry of Dracut, petition of Colleen M. Garry for legislation to establish a penalty for eluding a pursuing law enforcement officer's motor vehicle. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO FLEEING A PURSUING LAW ENFORCEMENT OFFICER'S MOTOR VEHICLE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 268 of the General Laws, as appearing in the 2000
2 Official Edition, is hereby amended by adding the following
3 section:—

4 Section 41. (a) Any person who, while operating a motor
5 vehicle and with the intent to evade, willfully flees or otherwise
6 attempt to elude a pursuing law enforcement officer's motor
7 vehicle, and the law enforcement officer's motor vehicle is
8 exhibiting at least one flashing, rotating, or oscillating blue light
9 as specified in section 7E of chapter 90 of the General Laws, and
10 the person either sees or reasonable should have seen such light;
11 the law enforcement officer's motor vehicle is sounding a siren as
12 may be reasonably necessary; the law enforcement officer's motor
13 vehicle is distinctively marked; and the law enforcement officer's
14 motor vehicle is operated by a law enforcement officer who is
15 wearing a distinctive uniform, shall be punished by imprisonment
16 in a jail or house of correction for not more than two and one-half
17 years or by a fine of not more than \$1,000, or by both fine and
18 imprisonment.

19 (b) Any person who flees or attempts to elude a pursuing law
20 enforcement officer in violation of paragraph (a) and who drives
21 his vehicle in a willful or wanton disregard for the safety of per-
22 sons or property, shall be punished by imprisonment in the state
23 prison for not more than five years or imprisonment in a jail or

24 house of correction for not more than two and one-half years or by
25 a fine of not more than \$10,000, or by both such fine and impris-
26 onment.

27 For purposes of this paragraph, “willful or wanton disregard for
28 the safety of persons or property” shall include, but not be limited
29 to, driving while fleeing or attempting to elude a pursuing law
30 enforcement officer during which time either three or more viola-
31 tions of traffic law or damage to property occurs.

32 (c) Any person who flees or attempts to elude a pursuing law
33 enforcement officer in violation of paragraph (a) and who proxi-
34 mately causes death or serious bodily injury to any person, shall
35 be punished by imprisonment in the state prison for not more than
36 ten years or imprisonment in a jail or house of correction for not
37 more than two and one-half years or by a fine of not more than
38 \$10,000, or by both such fine and imprisonment. For purposes of
39 this paragraph “serious bodily injury” shall mean a serious impair-
40 ment of physical condition, including, but not limited to the
41 following: loss of consciousness, concussion; bone fracture; pro-
42 tracted loss or impairment of function of any bodily member or
43 organ; a wound requiring extensive suturing; and serious disfig-
44 urement.